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**GENERAL COUNSEL
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No. 02-1220

Respondent.

IBS and Harvard seek judicial review of the Librarian's order of June 20, 2002, as published in July 8, 2002 Federal Register, 67 Fed. Reg. 45240 (July 8, 2002). In that order, the Librarian announced his determination of the reasonable rates and terms for compulsory licenses for certain digital performances of sound recordings and the making of ephemeral recordings. As petitioners note, that order of the Librarian is also the subject of other petitions for review filed

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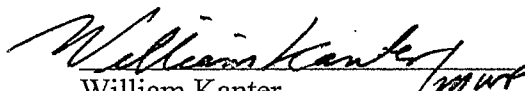
on August 7, 2002. These other petitions are docketed under numbers 02-1244 through 02-1249 in this Court and were consolidated by the Court, acting *sua sponte*.

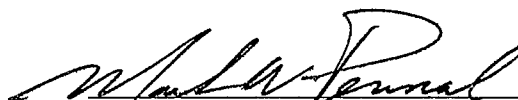
Notwithstanding that IBS and Harvard seek judicial review of the same order from which the other, consolidated petitions seek review, the Librarian respectfully submits that this Court should hold petitioners' motion to consolidate in abeyance. On August 7, 2002, the Librarian filed a Motion to Dismiss the petition of IBS and Harvard on grounds that neither were parties to the administrative proceedings and thus neither may seek judicial review of the Librarian decision under 17 U.S.C. 802(g). This Motion to Dismiss, if granted, would require complete dismissal of petitioners' petition for review. In these circumstances, it makes little sense to consolidate this petition for review with the other petitions for review while the Librarian's Motion To Dismiss remains pending. Plainly, if the Motion to Dismiss is granted by the Court, there will be no need to consolidate this petition for review with the other pending petitions seeking review of the Librarian's decision. If the Motion to Dismiss is denied, the Librarian would have no objection to consolidation at that time.

CONCLUSION

For all the foregoing reasons, petitioners' motion to consolidate should be held in abeyance pending a decision on the Librarian's pending Motion to Dismiss. After a decision on the Motion to Dismiss, petitioners' motion to consolidate may be disposed of as appropriate.

Respectfully submitted,


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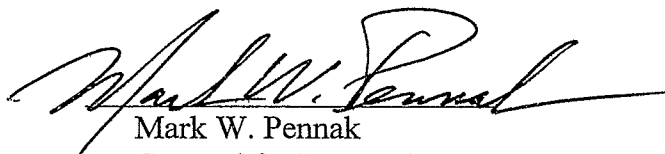
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